

James C. Child
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THE

PUBLIC STATUTES

OF THE

STATE OF MINNESOTA.

(1849—1858.)

COMPILED BY
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section [of this act], at the first general election after the passage thereof, the board of county commissioners of such county or counties shall be, and they are hereby authorized to appoint said road commissioners, who shall hold their offices until the next general election subsequent to such appointment; and for such time till such election shall take place; and the appointment of any road commissioners of any organized county where no election of such road commissioners have been held, is hereby declared legal and valid to all intents and purposes.

ized to appoint road commissioners when not elected.

(37.) SEC. XXIII. Anything in said act, or any act heretofore passed, inconsistent herewith, is hereby repealed.

Repeal of inconsistent provisions.

(38.) SEC. XXIV. All roads which have been located under former existing laws by county authorities, within this state, since the passage of the law authorizing the election of road commissioners, approved May twenty-third, A. D. eighteen hundred and fifty-seven, all roads so located are hereby declared valid under the provisions of this act.

Roads previously located declared valid.

(39.) SEC. XXV. This act shall be in full force from and after its passage.

Take effect.

CHAPTER 12.

SALVAGE.

SECTION

1. Person taking vessel may hold the same until salvage be paid.
2. When vessel worth more than ten dollars, taker-up to make oath before justice of the peace, and post up notices.
3. When owner proves property, and pays charges, the same to be delivered up.
4. Property how recovered by owner when it shall not be delivered up.
5. Where property is not claimed within thirty days, taker-up how to proceed; notices to be published in newspaper.
6. After thirty days from date of notice, justice to certify his doings to clerk of district court; property how sold.
7. Proceeds of sale to be paid into county treasury, after costs and charges are paid.
8. Justice of the peace how to proceed where property is of less value than one hundred dollars.

SECTION

9. Where property not worth ten dollars, taker-up to give notice.
10. Indian canoes and lumber not subject to the provisions of this chapter; proviso.
11. Owner may redeem property any time before sale.
12. Penalty for detaining or embezzling property.
13. Officer receiving money under the provisions of this chapter, and secreting the same, how punished.
14. Justice of the peace to issue search-warrant for lost property.
15. Penalty for taking up saw-logs.
16. When logs lodge, owner may remove the same.
17. Where logs are not claimed for two years, owner of land may use the same.
18. Penalty for injuring saw-logs.

An Act concerning Salvage.
 ✓ [Chapter 14, Revised Statutes.]

(1.) SEC. I. When any boat, canoe, or other vessel, or raft, shall be lost, wrecked, or found adrift and in a perishable condition, on or in any river in this territory, any person may take up and secure the same at or near the place where found, and may retain the same against the rightful owner or owners thereof, until salvage be paid; or may have and maintain a civil action against such owner or owners for the amount of salvage due under the provisions of this act.

Person taking vessel, may hold the same until salvage be paid.

(2.) SEC. II. Whenever any boat, canoe, or other vessel, or raft, shall be taken up and secured, if the same shall exceed the value of ten dollars,

When vessel worth more than ten dollars,

taker-up to make oath before justice of the peace, and post up notices.

the taker up shall forthwith go before the justice of the peace nearest to the place and in the precinct where such property shall have been secured, and make oath that the property was wrecked or lost, and found adrift, without the consent of the owner, as he believes, and was in a perishable condition, and that he was not directly or indirectly instrumental in causing the property to be so wrecked, lost, set adrift, or placed in a perishable condition; and shall further state under oath a description and the quantity and quality of such property, and the time it was taken up and secured, and that he has not secreted, or disposed of directly or indirectly, any part thereof; and shall forthwith put up notices in three public places near the place, and in the county in which said property was so taken up and secured, describing said property, and the time it was taken up, and notifying the owner thereof to prove property, pay charges, and take the same away.

When owner proves property, and pays charges, the same to be delivered up.

(3.) SEC. III. If the owner shall apply for and identify said property by proof under oath, certified by any person authorized to administer the same, within thirty days from the day on which the same was taken up; and shall pay to the person so taking up and securing the same, the sum of five dollars for taking up, and fifty cents per day for keeping said property, for each day that has expired between the day the said property was taken up and that on which the said owner shall have applied for and identified the same, he shall be permitted to take the same away; and if the person so taking up said property shall refuse to deliver up the same to the owner thereof or his agent, after being tendered the amount above described, the said owner may apply to the nearest justice of the peace of the county in which said property was so secured, and before him prove his right of possession to the same; whereupon the said justice of the peace, if the property is not valued at more than one hundred dollars, shall receive the sum due for taking up and keeping said property, and shall forthwith issue a writ of restitution directed to the sheriff or any constable of his county.

Property how recovered by owner when it shall not be delivered up.

(4.) SEC. IV. Said sheriff or constable shall thereupon proceed to take said property, and deliver the same into the possession of the person legally entitled to the same; and the fees of said justice as well as of the witnesses and officers executing the same, and all other costs arising from said examination and restitution, shall be paid by the person taking up and securing such property; but if said property is valued at more than one hundred dollars, the said justice after hearing the testimony in the case, shall take the same down in writing, and shall certify to the clerk of the district court of his proper county, all his proceedings in the case, and a copy of all testimony taken therein, with a bill of costs incurred before him; and the said clerk of the district court, if satisfied that the person so applying, from the testimony given, is entitled to the possession of the said property, shall receive the amount due to the person so taking up and securing the same, and shall forthwith issue a writ of restitution, requiring the sheriff of the county to cause the property to be placed in the possession of the persons so appearing to be entitled to the same; and the said person so taking up and securing the said property shall be liable for all costs.

Where property is not claimed within thirty days, taker-up how to proceed.

(5.) SEC. V. If said property shall not be applied for previous to the expiration of thirty days from the date of its being taken up, then the person taking up and securing the same, shall notify the justice of the peace before whom he made oath in the first instance, relative to the taking up and securing said property, and it shall be the duty of said justice of the peace to cause three disinterested persons to examine and assess, under oath, the value of said property, so taken up, its position and

condition, and make report of said examination and assessment to the said justice; and if the property is assessed at more than ten dollars, the said justice shall forthwith cause a description and valuation of said property to be published in a newspaper of his county, for three successive weeks, and notice given that unless the owner of the said property shall appear and identify the same, and pay the charges incurred thereon, within fifty days, the property will be sold to pay the same, and if there is no paper printed in his county, the same notice, description and valuation of said property, shall be given by posting up the same in three public places within his county.

Notices to be published in newspaper.

(6.) SEC. VI. At the expiration of thirty days from the date of said notice, if the property remains unclaimed and exceeds the value of one hundred dollars, said justice shall certify to the clerk of the district court of his proper county, a copy of all his doings in the case; and on the receipt of said certified copy of the proceedings, the clerk of the district court shall direct the sheriff under the seal of the court, to sell said property at public sale, to the highest bidder, for cash; whereupon, the sheriff shall give such notice of the time and place of said sale, not less than ten days, as will make the sale five days subsequent to the expiration of the fifty days' notice given by the justice of the peace.

After thirty days from date of notice, justice to certify his doings to clerk of district court.

Property how sold.

(7.) SEC. VII. The sheriff shall pay the amount received for said property to the clerk of the district court, who shall pay all costs which have accrued in the taking up, assessing, advertising or otherwise, allowing the same fees as are allowed in all other civil cases for the same duties; and allowing the person taking up and securing said property to select between receiving five dollars for taking up and securing, and thirty dollars for keeping the same, or twenty-five per cent. on the net proceeds of the sale thereof, the remainder of the proceeds of said sale shall be paid into the county treasury, the clerk of the district court taking the treasurer's receipt thereof, and shall be paid to the owner of said property, if application and satisfactory proof of such ownership be made within one year from the day of sale of said property.

Proceeds of sale to be paid into county treasury, after costs and charges are paid.

(8.) SEC. VIII. If any property shall be assessed at one hundred dollars or less, then the justice of the peace, instead of certifying his doings to the clerk of the district court, as provided for in section six, shall, at the expiration of thirty days from the date of the notice to publisher, as provided for in this chapter, direct the sheriff or some constable to sell said property at public sale, to the highest bidder, for cash; giving not less than twenty days' notice thereof, and said justice shall receive and dispose of the proceeds of such sale in the same manner and under the same regulations in all respects; and the amount, if any remaining, after paying the demands against said property, shall be paid to the county treasurer, subject to be claimed in the same manner as is provided for any sale made under the provisions of this chapter, under the authority of the clerk of the district court.

Justices of the peace how to proceed where property is of less value than one hundred dollars.

(9.) SEC. IX. In all cases when the property so taken up shall, in the opinion, under oath, of the person taking up and securing the same, not exceed the value of ten dollars, then, and in that case, the person so taking up and securing said property, shall forthwith give notice, by posting up three written or printed notices in three of the most public places in the neighborhood where such property was taken up and secured; and if the owner shall apply therefor, prove property, and pay one dollar for taking up and securing, and twenty-five cents per day for keeping the same, then said property shall forthwith be delivered to said owner; and in case of the refusal of any person having taken up and secured said property, he shall be proceeded against in the same manner as prescribed in

Where property is not worth ten dollars, taker-up to give notice.

section three of this chapter, for persons refusing to deliver to the owner thereof any property exceeding the value of ten dollars, so taken up and secured; and if no person shall apply for and prove his right to possess said property, for twenty days from the date of the taking up and securing the same, then the property may be removed from the water, or otherwise disposed of, by the person so taking up and securing the same for his own use and benefit.

Indian canoes and lumber not subject to the provisions of this chapter.

Proviso.

(10.) SEC. X. No canoes belonging to Indians, or cribs of lumber, or logs, shall be subject to the provisions of this chapter, but shall be returned to the owners thereof, on application for, and proof of the right to possess the same: *provided*, that rafts, or cribs of lumber, staves or logs, not purposely put adrift by the owners thereof, or their agents, for the purpose of driving the same, but shall have broken away, contrary to the desire, and against the will of the owners, or the agents, and which may be subject to be injured and broken to pieces if suffered to proceed, shall be subject to all the provisions of this chapter.

Owner may redeem property any time before sale.

(11.) SEC. XI. The owner, or his agent, on proof of ownership, before a justice of the peace, at any time previous to the day of sale, shall, on payment of five dollars for taking up the same, and fifty cents per day for the first thirty days, and twenty-five cents per day for each day thereafter, for keeping said property, together with any and all legal costs incurred for advertising, assessing, or otherwise, shall be entitled to the immediate possession of the property so taken up and secured.

Penalty for detaining or embezzling property.

(12.) SEC. XII. If any person unlawfully detain, or embezzle property wrecked, lost, or adrift, contrary to the provisions of this chapter, or shall neglect to keep in safety, or shall allow the same to get aground, after he shall have taken up and secured property, as aforesaid, the person so offending shall be liable to pay double damages to the party injured, in a civil action before any court having competent jurisdiction.

Officer receiving money under the provisions of this chapter, and secreting the same, how punished.

(13.) SEC. XIII. If any clerk of the district court, justice of the peace, or other officer, receiving money under the provisions of this chapter, shall secrete or embezzle the same, or any part thereof, such clerk, or other officer, shall forfeit four-fold the value thereof, to be recovered in a civil action, in any court having competent jurisdiction; one-half to the party injured, and the other half to the use of the county in which said cause may be tried.

Justice of the peace to issue search-warrant for lost property.

(14.) SEC. XIV. When any person shall make oath before any justice of the peace, that he has lost any property by wreck, or the rising of the waters, or other accident, and that he has good cause to believe that such property, so lost, is secreted by, or in the possession or custody of, any other person, it shall be lawful for such justice of the peace, by warrant, under his hand, to direct any constable to search for, and take into his custody and charge, the property so secreted, or in the possession of any person; and the person so secreting, or having such property in his possession, shall not be entitled to salvage, and shall be further liable to pay a fine of not more than twenty, nor less than five dollars, for the use of the county, upon being convicted of secreting, or having such property in his possession, without advertising, as provided for in this chapter.

Penalty for taking up saw-logs.

(15.) SEC. XV. No loose saw-logs of pine, or other wood, floating in any stream of this territory, shall be taken up, or stopped, without the consent, or authority, of the owner thereof, under the penalty, if the said logs are marked or branded, as required by law, of double the price of said logs so taken up or stopped; to be recovered in a civil action, before any court having competent jurisdiction.

When logs lodge, owner may remove the same.

(16.) SEC. XVI. Whenever any saw-logs, owing to high waters, shall float, or drift, on the premises of any person, and shall there stop, or lodge,

the owner shall have authority to remove the same, doing as little damage to the fences, trees, or other property, as possible; and any person who shall attempt to prevent the owner of any logs, or his agent, taking said logs, shall be liable to a fine of not more than five dollars, for every such offense.

(17.) SEC. XVII. When saw-logs, or timber, shall have lodged, or stopped, on the premises of any person in this territory, and no person shall appear to claim the same for the space of two years, the owner, or occupant of said land may convert the said logs, or timber, to his own use.

Where logs are not claimed for two years, owner of land may use the same.

(18.) SEC. XVIII. Any person who shall willfully cut, split, or otherwise injure any saw-log that is marked, or branded, or shall willfully drive any saw-logs into any slough, or on any island, or bottom land, with a view to secrete the same, shall be liable to pay double damages to the owner of such logs.

Penalty for injuring saw logs.

CHAPTER 13.

ESTRAYS AND ARTICLES ADRIFT.

SECTION

1. Who may take up strays.
2. Within what time notice to be given to owner.
3. How notice to be given, if owner is unknown.
4. When value of stray is ten dollars, appraisal to be made and filed.
5. Owner may have stray restored within one year.
6. If the owner and finder cannot agree upon charges, justice may settle them.
7. When strays to be property of finder without sale; when stray to be sold.
8. Penalty for taking away stray without consent of finder.
9. Penalty for neglect of finder to advertise, &c.
10. When and how finder of money or goods to give notice thereof.
11. When notice to be published and appraisal made.
12. When and how owner to have restitution.
13. If owner do not appear, finder to pay one half into the county treasury.
14. Penalty if finder neglect to give notice.
15. Advertisement of estrays taken up, within five days thereafter.
16. Report to justice of peace; mode of appraisal.
17. Oath of taker-up of stray property.
18. Description of stray to be transmitted to clerk of district court by justice.
19. Advertisement in newspaper; fee therefor.
20. Ownership of property unclaimed.
21. Time for claiming property; report to justice, if not claimed.
22. Public sale of unclaimed property; payment of charges to taker-up.
23. Sale of horses, mules or asses unclaimed; payment of charges.
24. Funds paid to county treasury to be designated stray fund.
25. Fees for taking up estrays.
26. Allowance for taking up property adrift.
27. Fees to be paid on making return to justice of peace.
28. Register of estrays.
29. Compensation for keeping stray property, how determined.

SECTION

30. Deduction for keeping of animals, if worked by taker-up.
31. Claiming of property before sale, or of money after sale.
32. Restrictions upon taking up estrays.
33. Prohibits stray property from being taken out of county for more than three days until sold.
34. Fatted hogs, provision for killing after one month's notice.
35. Stock hogs, provision for purchasing at appraised value.
36. Reclaiming of property taken up while adrift.
37. Property to be surrendered on payment of reasonable compensation.
38. Summary proceeding for recovery of property wrongfully detained.
39. Filing of affidavit by claimant.
40. Duties of justice on cases brought before him.
41. Rules governing action before justice.
42. Provisions of this chapter prior to section 23 inapplicable to subsequent sections.
43. Advertisement of property adrift, to be made within seven days.
44. Penalty for neglect to comply with provisions of this act.
45. Act not to apply to logs or lumber afloat or ashore.
46. Repeal of acts contravening provisions of this act.
47. Act takes effect on passage.
48. Description of property received by consignees or bailees to be entered in a book.
49. When and how owner to be notified of reception of property.
50. If property not claimed and taken away in one year, may be sold.
51. Notice of sale, how to be given.
52. Proceeding if owner do not appear and take away property upon notice.
53. Inventory to be made, and justice to order property sold.
54. Constable to give notice, and sell property at auction.